

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3970 of 1994

Date of decision: 30-7-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHANLAL HANSRAJ THAKKER

Versus

G.S.R.T.C., BHUJ

Appearance:

MR HK RATHOD for Petitioner

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/07/97

ORAL JUDGEMENT

The petitioner, a conductor of the Gujarat State Road Transport Corporation has filed this special civil application before this Court and challenge has been made to the award of the Industrial Tribunal, dated 17th June, 1993, rejecting Reference No.123/87.

2. On February 9, 1986 when the petitioner was on duty on route from Gandhidham to Juna Kandla his bus was checked by the checking staff at Sarva Cross Road and it was reported that the petitioner had carried five passengers without ticket from whom fare was not collected, and the way bill was not properly filled in. After holding departmental inquiry against the petitioner on proved misconduct as alleged against him, penalty of withholding of four grade increments with cumulative effect has been given. The petitioner raised industrial dispute which has been referred to the Industrial Tribunal and the Tribunal, after considering the matter, interfered with the quantum of punishment and in place of penalty of stoppage of four grade increments it was substituted by penalty of withholding of three increments. Hence this petition before this court.

3. The only contention raised by the learned counsel for the petitioner is that it was not a case where the petitioner has misappropriated the Corporation's money. As the bus was overcrowded, ticket could not be given to those passengers. In view of this position the counsel for the petitioner submitted that the penalty of withholding three grade increments with future effect is highly disproportionate and harsh to the proved misconduct.

4. I do not find any substance in this contention of the counsel for the petitioner. So far as the fact that five passengers were found without ticket is concerned, the petitioner is a conductor of the Corporation and it was his duty to see that no passenger should enter the bus without ticket and if some body has entered the bus, then to see that ticket is issued to them and fare is collected. So it cannot be said that misconduct was not committed. Even if it is considered that for the reason that there was overcrowd in the bus and he could not give ticket to those persons still, it cannot be said that it is a case where the petitioner is not blame worthy. However, the disciplinary authority has taken lenient view of the matter and penalty of withholding three increments with future effect is given. Sitting under Article 226/227 of the Constitution of India the powers of this court of judicial review in the matter of quantum of punishment is very limited. This court interfere with

the quantum of punishment given to the delinquent employee where it is found to be highly excessive or disproportionate to its judicial conscience. The Industrial Tribunal in this case reduced the penalty given to the petitioner by the Corporation from withholding of four increments to three increments and no further indulgence is warranted in this case. No case is made out for interference with the award passed by the Industrial Tribunal.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

.....

csm